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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CLARK,

Plaintiff,

V.

LARRY LIDGETT, et al.,

Defendants.

• • • • •

Civil No. 01-0764

(Judge Caldwell)

FILED
HARRISBURG, PA
SEP 14 2001
MARYE D'ANDREA, CLERK
Per _____
Deputy Clerk

**CORRECTIONS DEFENDANTS' WAIVER OF
REPLY TO PLAINTIFFS' COMPLAINT**

The Corrections Defendants, Martin Horn, Robert Meyers, and Larry Lidgett, by and through their attorney, John J. Talaber, Assistant Counsel for the Pennsylvania Department of Corrections, in accordance with the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997(e), as amended by §803(d) of the Prison Litigation Reform Act of 1995, hereby waive their right to reply to the Plaintiff's complaint in this action which is brought pursuant to 42 U.S.C. §1983. This waiver does not constitute an admission of any of the allegations contained in the complaint. Furthermore, the Corrections Defendants assert all available affirmative defenses to the complaint including, but not limited to, the following:

FIRST AFFIRMATIVE DEFENSE

The Corrections Defendants acted at all times within the scope of their authority and without any actual or imputed knowledge that their actions violated any of the Plaintiff's constitutional rights; therefore, the Corrections Defendants are immune from suit.

SECOND AFFIRMATIVE DEFENSE

The Corrections Defendants at all times were acting in reliance upon valid federal and state laws and regulations.

THIRD AFFIRMATIVE DEFENSE

The Corrections Defendants assert each and every defense available to them under the existing Civil Rights Act.

FOURTH AFFIRMATIVE DEFENSE

Any and all alleged damages or injuries sustained by Plaintiff resulted not from the conduct or acts of the Corrections Defendants, but from the conduct or acts of Plaintiff or other persons.

FIFTH AFFIRMATIVE DEFENSE

Whatever actions may have been taken by the Corrections Defendants that caused loss to the Plaintiff were justified.

SIXTH AFFIRMATIVE DEFENSE

The Corrections Defendants lacked personal or direct involvement in any of the alleged violations of Plaintiff's rights.

SEVENTH AFFIRMATIVE DEFENSE

The Corrections Defendants are entitled to official immunity from Plaintiff's claims.

EIGHTH AFFIRMATIVE DEFENSE

At all times relevant hereto, any actions or inactions of the Corrections Defendants were done within the scope of their authority, in good faith, and without malice.

NINTH AFFIRMATIVE DEFENSE

The Corrections Defendants are entitled to objective, good faith immunity from Plaintiff's claims and have not violated any rights and/or clearly established rights of Plaintiff.

TENTH AFFIRMATIVE DEFENSE

Whatever actions or inactions committed by the Corrections Defendants that may have caused loss to the Plaintiff, (but expressly denied), were justified.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff consented to any actions or inactions committed by the Corrections Defendants; therefore, Plaintiff's claims against the Defendants are barred.

TWELFTH AFFIRMATIVE DEFENSE

Any actions or inactions committed by the Corrections Defendants were done pursuant to duties required by statute, regulation or directive; therefore, the Corrections Defendants are immune from suit.

THIRTEENTH AFFIRMATIVE DEFENSE

Any actions or inactions committed by the Corrections Defendants were matters within the discretion granted to the Corrections Defendants by statute, regulation or directive; therefore, the Corrections Defendants are immune from suit.

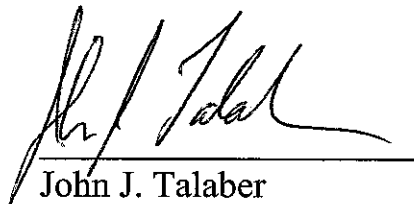
FOURTEENTH AFFIRMATIVE DEFENSE

The complaint fails to state a claim or cause of action upon which relief may be granted.

FIFTEENTH AFFIRMATIVE DEFENSE

The Corrections Defendants affirmatively plead any other matter constituting an avoidance or affirmative defense.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John J. Talaber", is written over a horizontal line.

John J. Talaber
Assistant Counsel
Attorney Id. No. 83279

PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444
Dated: September 13, 2001

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PROOF OF SERVICE

The undersigned hereby certifies that the Corrections Defendants' Waiver of Reply to Plaintiff's Complaint was served upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

William Clark, AY-5585
SCI-Rockview
Box A
Bellefonte, PA 16823


Tracey M. McCullough
Administrative Officer

PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444
Dated: September 13, 2001